

## Introduced by Senator Perata

February 17, 2005

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An act to amend Section 1371.4 of the Health and Safety Code, relating to health care.

## LEGISLATIVE COUNSEL'S DIGEST

SB 364, as introduced, Perata. Health care service plans.

Under existing law, the Knox-Keene Health Care Service Plan Act of 1975, the Department of Managed Health Care regulates health care service plans. Existing law requires a health care service plan to reimburse providers for emergency services and care provided to its enrollees, until the care results in stabilization of the enrollee, except as specified.

This bill would specify that that reimbursement is to occur in accordance with related provisions specifying how health care service plans reimburse claims.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1371.4 of the Health and Safety Code is
- 2 amended to read:
- 3 1371.4. (a) A health care service plan, or its contracting
- 4 medical providers, shall provide 24-hour access for enrollees and
- 5 providers to obtain timely authorization for medically necessary
- 6 care, for circumstances where the enrollee has received
- 7 emergency services and care is stabilized, but the treating
- 8 provider believes that the enrollee may not be discharged safely.
- 9 A physician and surgeon shall be available for consultation and

1 for resolving disputed requests for authorizations. A health care  
2 service plan that does not require prior authorization as a  
3 prerequisite for payment for necessary medical care following  
4 stabilization of an emergency medical condition or active labor  
5 need not satisfy the requirements of this subdivision.

6 (b) ~~A~~ *In accordance with Section 1371.35*, a health care  
7 service plan shall reimburse providers for emergency services  
8 and care provided to its enrollees, until the care results in  
9 stabilization of the enrollee, except as provided in subdivision

10 (c). As long as federal or state law requires that emergency  
11 services and care be provided without first questioning the  
12 patient's ability to pay, a health care service plan shall not  
13 require a provider to obtain authorization prior to the provision of  
14 emergency services and care necessary to stabilize the enrollee's  
15 emergency medical condition.

16 (c) Payment for emergency services and care may be denied  
17 only if the health care service plan reasonably determines that the  
18 emergency services and care were never performed; provided  
19 that a health care service plan may deny reimbursement to a  
20 provider for a medical screening examination in cases when the  
21 plan enrollee did not require emergency services and care and the  
22 enrollee reasonably should have known that an emergency did  
23 not exist. A health care service plan may require prior  
24 authorization as a prerequisite for payment for necessary medical  
25 care following stabilization of an emergency medical condition.

26 (d) If there is a disagreement between the health care service  
27 plan and the provider regarding the need for necessary medical  
28 care, following stabilization of the enrollee, the plan shall assume  
29 responsibility for the care of the patient either by having medical  
30 personnel contracting with the plan personally take over the care  
31 of the patient within a reasonable amount of time after the  
32 disagreement, or by having another general acute care hospital  
33 under contract with the plan agree to accept the transfer of the  
34 patient as provided in Section 1317.2, Section 1317.2a, or other  
35 pertinent statute. However, this requirement shall not apply to  
36 necessary medical care provided in hospitals outside the service  
37 area of the health care service plan. If the health care service plan  
38 fails to satisfy the requirements of this subdivision, further  
39 necessary care shall be deemed to have been authorized by the  
40 plan. Payment for this care may not be denied.

(e) A health care service plan may delegate the responsibilities enumerated in this section to the plan's contracting medical providers.

(f) Subdivisions (b), (c), (d), (g), and (h) shall not apply with respect to a nonprofit health care service plan that has 3,500,000 enrollees and maintains a prior authorization system that includes the availability by telephone within 30 minutes of a practicing emergency department physician.

(g) The Department of Managed Health Care shall adopt by July 1, 1995, on an emergency basis, regulations governing instances when an enrollee requires medical care following stabilization of an emergency medical condition, including appropriate timeframes for a health care service plan to respond to requests for treatment authorization.

(h) The Department of Managed Health Care shall adopt, by July 1, 1999, on an emergency basis, regulations governing instances when an enrollee in the opinion of the treating provider requires necessary medical care following stabilization of an emergency medical condition, including appropriate timeframes for a health care service plan to respond to a request for treatment authorization from a treating provider who has a contract with a plan.

(i) The definitions set forth in Section 1317.1 shall control the construction of this section.

(j) (1) A health care service plan that meets the criteria set forth in paragraphs (3) and (4) of subdivision (a) of Section 1262.8 and that is contacted by a hospital pursuant to Section 1262.8 shall, within 30 minutes of the time the hospital makes the initial telephone call requesting information, do all of the following:

(A) Discuss the enrollee's medical record with the noncontracting physician and surgeon or an appropriate representative of the hospital.

(B) Transmit any appropriate portion of the enrollee's medical record requested by the appropriate hospital representative or the noncontracting physician and surgeon to the hospital by facsimile transmission or electronic mail, whichever method is requested by the appropriate hospital representative or the noncontracting physician and surgeon. The health care

1 service plan shall transmit the record in a manner that complies  
2 with all legal requirements to protect the enrollee's privacy.

3 (C) Either authorize poststabilization care or inform the  
4 hospital that it will arrange for the prompt transfer of the enrollee  
5 to another hospital.

6 (2) A health care service plan that meets the criteria set forth  
7 in paragraphs (3) and (4) of subdivision (a) of Section 1262.8 and  
8 that is contacted by a hospital pursuant to Section 1262.8 shall  
9 reimburse the hospital for poststabilization care rendered to the  
10 enrollee if any of the following occur:

11 (A) The health care service plan authorizes the hospital to  
12 provide poststabilization care.

13 (B) The health care service plan does not respond to the  
14 hospital's initial contact or does not make a decision regarding  
15 whether to authorize poststabilization care or to promptly transfer  
16 the enrollee within the timeframe set forth in paragraph (1).

17 (C) There is an unreasonable delay in the transfer of the  
18 enrollee, and the noncontracting physician and surgeon  
19 determines that the enrollee requires poststabilization care.

20 (3) Paragraphs (1) and (2) do not apply to a physician and  
21 surgeon who provides medical services at the hospital.

22 (4) A health care service plan that meets the criteria set forth  
23 in paragraphs (3) and (4) of subdivision (a) of Section 1262.8  
24 shall not require a hospital representative or a noncontracting  
25 physician and surgeon to make more than one telephone call  
26 pursuant to Section 1262.8 to the number provided in advance by  
27 the health care service plan. The representative of the hospital  
28 that makes the telephone call may be, but is not required to be, a  
29 physician and surgeon.

30 (5) An enrollee who is billed by a hospital in violation of  
31 Section 1262.8 may report receipt of the bill to the health care  
32 service plan and the department. The department shall forward  
33 that report to the State Department of Health Services.

34 (6) For purposes of this section, "poststabilization care"  
35 means medically necessary care following stabilization of an  
36 emergency medical condition.